

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**URGENT MOTION OF THE DEBTORS, BY AND THROUGH
THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,
TO SEAL THE PULLO DECLARATION**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth of Puerto Rico (the “Commonwealth”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), and the Puerto Rico Public Buildings Authority (“PBA,” and together with the

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Commonwealth and ERS, the “Debtors”), pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submits this *Urgent Motion of the Debtors, by and through the Financial Oversight and Management Board for Puerto Rico, to Seal the Pullo Declaration* (the “Urgent Motion”) requesting the entry of an order sealing the Pullo Declaration (as defined below) and granting the Oversight Board leave to file the Pullo Declaration with certain personally identifying information in the Excluded Ballots Report (as defined below) redacted.

JURISDICTION AND VENUE

1. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA. Venue is proper pursuant to section 307(a) of PROMESA.

2. The statutory basis for the relief requested herein is section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9018, made applicable to these proceedings by PROMESA §§ 301(a) and 310, and Local Rule 9018-1 of the Local Bankruptcy Rules for the District of Puerto Rico (the “Local Rules”).

BASIS FOR RELIEF REQUESTED

3. On November 3, 2021, the Debtors filed the *Declaration of Christina Pullo of Prime Clerk LLC Regarding the Solicitation of Votes and Tabulation of Ballots Cast on Seventh Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [ECF No. 19056] (the “Pullo Declaration”). The Pullo Declaration provides the testimony of Christina Pullo,

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

Managing Director, Head of Corporate Actions at Prime Clerk LLC, with respect to the solicitation of votes and the tabulation of ballots cast on the Plan.³

4. On November 5, 2021, the Debtors filed the *Continued Exhibits of Debtors* [ECF No. 19108] submitting several newly designated exhibits, identified as Debtors' Exhibits 134 to 142, which were not known or available to the Debtors as of the filing of the *Debtors' Amended Final Exhibit List in Connection with Confirmation Hearing* [ECF No. 18785] (the "First Amended Exhibit List") on October 27, 2021. The Debtors submitted the Pullo Declaration as Debtors' Exhibit 142 [ECF No. 19108-5].

5. At the November 8, 2021 session of the confirmation hearing, the Debtors offered Debtors' Exhibit 142 into evidence in support of confirmation of the Plan, and the Court deemed the exhibit admitted.

6. The Pullo Declaration, at both ECF Nos. 19056 and 19108-5, includes as Exhibit B therein a report of all ballots excluded from the final tabulation prepared by Prime Clerk and the reasons for exclusion of such ballots (the "Excluded Ballots Report").

7. The Excluded Ballots Report identifies parties whose ballots were excluded from the final tabulation prepared by Prime Clerk by creditor name, voting amount, and Plan vote, and includes ballots cast by creditors in Plan classes 51B, 51D, 51E, 51F, 51G, 51H, 51I, and 51L (the "Retiree Classes").

³ "Plan" refers to the *Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [ECF No. 19114] as it may be amended, modified, or supplemented from time to time. Capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Plan.

8. The Oversight Board seeks to avoid public dissemination of sensitive information, including the full names, voting amounts,⁴ and Plan votes of members of the Retiree Classes whose information appears on the Excluded Ballots Report.

RELIEF REQUESTED

9. The Oversight Board respectfully requests that the Court seal the Pullo Declaration, currently filed at ECF Nos. 19056 and 19108-5, and grant the Oversight Board leave to file a redacted version of the Pullo Declaration that redacts the full names of members of the Retiree Classes found in the Excluded Ballots Report.

10. In accordance with Local Bankruptcy Rule 9013-1(a)(2) and Paragraph 1.H of the *Fifteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 17127-1] (the “Case Management Procedures”), the Oversight Board certifies that it has carefully examined the matter and concluded that there is a true need for expedited consideration of the Urgent Motion, and that the Oversight Board has not created the urgency through lack of due diligence on its part. The Oversight Board further certifies that it made a bona fide and good faith effort to resolve the matter without a hearing.

⁴ Pursuant to Paragraph 37(h) of the *Order (I) Approving Disclosure Statement, (II) Fixing Voting Record Date, (III) Approving Confirmation Hearing Notice And Confirmation Schedule, (IV) Approving Solicitation Packages And Distribution Procedures, (V) Approving Forms Of Ballots, And Voting And Election Procedures, (VI) Approving Notice Of Non-Voting Status, (VII) Fixing Voting, Election, And Confirmation Deadlines, And (VIII) Approving Vote Tabulation Procedures* [ECF No. 17639], the voting amount for Classes 51B, 51D, 51E, 51F, and 51L were weighted according to the monthly benefit amount (including monthly proration of annual retirement plan bonuses) as of April 1, 2021. Members of Classes 51G, 51H, and 51I were tabulated as having the same claim amount (\$1.00) for voting purposes.

NO PRIOR REQUEST

11. No prior request for the relief sought in this Urgent Motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE the Debtors respectfully request the Court enter the Proposed Order attached as Exhibit A, granting the relief requested herein and all other relief as is just and proper.

Dated: November 9, 2021
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

Martin J. Bienenstock (*pro hac vice*)

Brian S. Rosen (*pro hac vice*)

Margaret A. Dale (*pro hac vice*)

Julia D. Alonzo (*pro hac vice*)

Laura Stafford (*pro hac vice*)

PROSKAUER ROSE LLP

Eleven Times Square

New York, NY 10036

Tel: (212) 969-3000

Fax: (212) 969-2900

*Attorneys for the Financial Oversight and
Management Board as representative for the
Debtors*

/s/ Hermann D. Bauer

Hermann D. Bauer

USDC No. 215205

O'NEILL & BORGES LLC

250 Muñoz Rivera Ave., Suite 800

San Juan, PR 00918-1813

Tel: (787) 764-8181

Fax: (787) 753-8944

*Co-Attorneys for the Financial Oversight and
Management Board as representative for the
Debtors*

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Hermann D. Bauer
Hermann D. Bauer

Exhibit A

Proposed Order

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**[PROPOSED] ORDER GRANTING URGENT MOTION OF THE DEBTORS,
BY AND THROUGH THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD
FOR PUERTO RICO, TO SEAL THE PULLO DECLARATION**

Upon consideration of the *Urgent Motion of the Debtors, by and through the Financial Oversight and Management Board for Puerto Rico, to Seal the Pullo Declaration* (the “Urgent Motion”), filed by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth of Puerto Rico (the

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“Commonwealth”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), and the Puerto Rico Public Buildings Authority (“PBA,” and together with the Commonwealth and ERS, the “Debtors”), pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”); and the Court having found that it has jurisdiction over this matter pursuant to PROMESA section 306; and it appearing that venue in this district is proper pursuant to PROMESA section 307; and the Court having found that, based on the statements and arguments made in the Urgent Motion, it is appropriate to seal the Pullo Declaration² where currently filed as described in the Urgent Motion, and to further grant leave for the Oversight Board to file the Pullo Declaration with personally identifying information of the Retiree Classes redacted; and due and proper notice of the Urgent Motion having been provided under the particular circumstances and that no other or further notice is required; and after due deliberation and sufficient cause appearing therefore, it is hereby ORDERED that:

1. The Urgent Motion is granted as set forth herein.
2. The Pullo Declaration, currently filed at ECF Nos. 19056 and 19108-5, shall be sealed.
3. The Oversight Board is granted leave to file the Pullo Declaration with the full names of the Retiree Classes in the Excluded Ballots Report redacted.
4. The order is without prejudice to the rights of any party in interest to seek to unseal the documents or any part thereof.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Urgent Motion.

Dated: _____

LAURA TAYLOR SWAIN
United States District Judge